

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 15.02.2021

CORAM

THE HONOURABLE Mr.JUSTICE N. ANAND VENKATESH

Crl.OP.No.2791 of 2021 and Crl.M.P.No.1546 of 2021

P.Chandrakumar,
S/o.Palanimari

. . . Petitioner

Vs

1.State By: The Inspector of Police,
T-12, Ponnammallee Police Station,
Ponnammallee, Chennai.

2.Mr.Balsamy,
Tashildar (incharge) Tashildar Office,
Ponammallee

. . . Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in C.C.No.21 of 2016 on the file of the Judicial Magistrate Court No.2, Ponnammallee, Chennai and quash the same in respect of the petitioner.

For Petitioner : Mr.P.Pugalenthi

For Respondents : Mr.C.Raghavan

Government Advocate

ORDER

On consent given by either side, the main petition itself is taken up for final hearing.

2.The case of the prosecution is that the petitioner was detained at the Special Camp, Poonamallee. A protest was made by the petitioner and others by way of a hunger strike from 15.08.2013 to 24.08.2013. Based on the same, an F.I.R. came to be registered for an offence under Section 309 IPC on the ground that there was an attempt to commit suicide. On completion of the investigation, a final report was filed before the Court below and the Court below has taken cognizance of the final report in C.C.No.21 of 2016. Challenging the proceedings, the present petition has been filed before this Court.

3.Heard Mr.P.Pugalenthi, learned counsel appearing on behalf of the petitioner and Mr.C.Raghavan, learned Government Advocate (Crl.side), appearing on behalf of the first respondent.

4.There are primarily two grounds that have been raised in this petition. The first ground is that even if the allegations are taken as it is, no offence has been made out under Section 309 IPC. The second ground that has been raised is that the offence under Section 309 IPC is punishable with a maximum imprisonment of one year. The F.I.R. was registered in the year 2013 and the Court below has taken cognizance in the year 2016 and the same is barred under Section 468 Cr.P.C.

5.This Court has carefully considered the submissions made on either side and the materials available on record.

6.The mere fact that the petitioner has protested by sitting on hunger strike will not attract the offence under Section 309 IPC. Even if the materials available on record are taken as it is, it does not constitute an offence under Section 309 IPC.

7.That apart, the Court below ought to have taken cognizance within a period of one year since the offence is punishable for a maximum period of one year. However, the Court below has taken cognizance after nearly three years without assigning any reasons. Therefore, taking cognizance of the final report by the Court below is barred by law and stands vitiated.

8.In view of the above, no useful purpose will be served in keeping the proceedings pending and the proceedings in C.C.No.21 of 2016 on the file of the learned Judicial Magistrate No.II,

Poonamallee, is hereby quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petition is closed.

15.02.2021

Upload order copy by 17.02.2021

Index :Yes/No

Internet:Yes/No

Speaking/Non speaking order

To

- 1.The Judicial Magistrate No.2,
Poonamallee.
- 2.The Inspector of Police, T-12,
Poonamallee Police Station,
Poonamallee, Chennai.
3. The Public Prosecutor, High Court, Madras.